# IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO. 12 OF 2005

SHRI VISHNU BHUDU PAWAR(DEC.) ....Petitioners
REP.THROUGH HIS LEGAL HEIRS

Versus

SMT.MARIA AMANDA CONCEICAO ....Respondents
MATILDAS ARAUJO COSTA BIR ALIAS
MARIA AMANDA COSTA BIR(SIN.DEC.)
THROUGH

Mr. Zeller D'Souza, advocate for the petitioners.
Mr. C. A. Coutinho, advocate for the respondents.

Coram:- R. M. LODHA, J.

Date:- 26th August, 2005

P.C.

Heard Mr. Z. D'Souza, learned counsel for the petitioners and perused the impugned Order.

The contention of the learned counsel for the petitioners is that the original defendant died in the year 1993, much before the decision in the suit and on his death the suit abated in toto since his legal representatives were not brought on record.

The contention of the learned counsel for the petitioners is devoid of any substance and merit. It is not in dispute that one of the sons of the first defendant was already party to the suit as defendant no.2. In a fact situation like this where one of the heirs of the deceased defendant no.1 was already on record, though in a different capacity, the question of abatement will not arise as the estate of the deceasd was represented by one of the heirs who was already on record.

In this backdrop the consideration of the matter by the Executing Court cannot be said to suffer from any error of jurisdiction.

The Civil Revision Application does not deserve to be admitted and is dismissed in limine.

R. M. LODHA, J.